

1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE DISTRICT OF PUERTO RICO**

3                   **CONDADO 2 CLF, LLC,**

4                   **Plaintiff,**

5                   **v.**

**CASE NO. 17-1994**

6                   **R.R. ENTERPRISES, S.E., et al.,**

7                   **Defendants.**

8                                   **MEMORANDUM OPINION**

9                   Condado 2 CLF, LLC (“Plaintiff”) sued R.R. Enterprises, S.E., Plaza Barbosa, Inc.,  
10                  Rafelio Cardona-Acevedo, Myriam Ruemmele-Matos, and the conjugal partnership between  
11                  Cardona-Acevedo and Ruemmele-Matos (collectively “Defendants”) under diversity  
12                  jurisdiction to foreclose certain mortgages and collect monies owed. (Docket No. 1 at 2; 34-  
13                  35). Defendants filed a motion to dismiss for lack of subject matter jurisdiction, which they later  
14                  amended. (Docket Nos. 33; 35). Plaintiff responded in opposition. (Docket No. 52). Defendants  
15                  then filed a motion requesting jurisdictional discovery, which Plaintiff also opposed. (Docket  
16                  Nos. 57; 62). For the reasons below, the Court **DENIES without prejudice** Defendants’  
17                  amended motion to dismiss at Docket No. 35 and **GRANTS** Defendants’ motion for  
18                  jurisdictional discovery at Docket No. 57.

19                  Federal courts are courts of limited jurisdiction, and the party invoking such jurisdiction  
20                  must prove it exists. Aversa v. United States, 99 F.3d 1200, 1209 (1st Cir. 1996) (citation  
21                  omitted). Subject matter jurisdiction in this case is premised on diversity of citizenship under  
22                  28 U.S.C. § 1332. (Docket No. 1-57). As such, the Court must determine whether there is  
23                  complete diversity between Plaintiff and all Defendants. Casas Office Machines v. Mita  
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1 Copystar America, Inc., 42 F.3d 668, 673 (1st Cir. 1994) (citations omitted). Without complete  
2 diversity, federal subject matter jurisdiction does not exist. Id.

3 To ascertain whether there is diversity in this case, the Court must inquire as to each  
4 party's citizenship. For diversity purposes, "the citizenship of a limited liability company is  
5 determined by the citizenship of all of its members." Pramco, LLC ex rel. CFSC Consortium,  
6 LLC v. San Juan Bay Marina, Inc., 435 F.3d 51, 54 (1st Cir. 2006) (noting every other circuit  
7 to consider the question held the same and finding no reason to depart from those holdings). A  
8 corporation, on the other hand "shall be deemed to be a citizen of every State . . . by which it  
9 has been incorporated and of the State . . . where it has its principal place of business . . . ." 28  
10 U.S.C. § 1332(c)(1). The principal place of business is its "nerve center," meaning "the  
11 particular location from which its 'officers direct, control, and coordinate the corporation's  
12 activities.'" Harrison v. Granite Bay Care, Inc., 811 F.3d 36, 40 (1st Cir. 2016) (quoting Hertz  
13 Corp. v. Friend, 559 U.S. 77, 92-93 (2010)). "Generally speaking, this will 'be the place where  
14 the corporation maintains its headquarters—provided that the headquarters is the actual center  
15 of direction, control, and coordination . . . and not simply an office where the corporation holds  
16 its board meetings (for example, attended by directors and officers who have traveled there for  
17 the occasion).'" Id. (quoting Hertz Corp., 559 U.S. at 93).

18 "The party seeking to establish diversity jurisdiction bears the burden of  
19 persuasion . . . ." Id. When challenged on jurisdictional allegations, "the parties must support  
20 their allegations by competent proof." Hertz Corp., 559 U.S. at 96–97 (citation omitted). Basic  
21 corporate filings—a Form 10-K for example—are not, on their own, sufficient to provide the  
22 necessary support. Id. at 97. Notably, "[n]o presumption of truthfulness attaches to the  
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1 allegations.” Media Duplication Servs., Ltd. v. HDG Software, Inc., 928 F.2d 1228, 1235 (1st  
2 Cir. 1991) (citation omitted).

3       The Supreme Court has cautioned that courts must be watchful for instances of  
4 “jurisdictional manipulation.” Hertz Corp., 559 U.S. at 97. “Indeed, if the record reveals  
5 attempts at manipulation—for example, that the alleged ‘nerve center’ is nothing more than a  
6 mail drop box, a bare office with a computer, or the location of an annual executive retreat—  
7 the courts should instead take as the ‘nerve center’ the place of actual direction, control, and  
8 coordination, in the absence of such manipulation.” Id. “Where there is inadequate evidence  
9 adduced to establish the location of a corporation’s principal place of business at the time the  
10 complaint was filed, there are insufficient facts to support diversity jurisdiction.” Media  
11 Duplication, 928 F.2d at 1236 (citation omitted).

12       It is undisputed that, for the purposes of diversity analysis, all Defendants are citizens  
13 of Puerto Rico. (Docket Nos. 23 ¶ 5-8; 35 at 14). Plaintiff’s citizenship, however, is hotly  
14 contested. As a limited liability company, its citizenship is determined by the citizenship of its  
15 individual members. Plaintiff’s sole member is Condado 2 CLF, Inc. (Docket No. 52 at 3).  
16 Because Condado 2 CLF, Inc. is a corporation, the next inquiry is where it was incorporated  
17 and where its principal place of business exists. With respect to state of incorporation, Plaintiff  
18 presents a certificate of incorporation as evidence that Condado 2 CLF, Inc. was incorporated  
19 in Delaware. (Docket No. 53-1). Its purported principal place of business is an address in  
20 Minnesota, although Defendants argue adamantly that the Minnesota address is a contrivance  
21 designed to manufacture diversity jurisdiction for a company that, in reality, exists and operates  
22 in Puerto Rico. (Docket Nos. 52 at 10; 35 at 3).

1 In support of their contention, Defendants point to the fact that Plaintiff's proffered  
2 business address is a residential condominium with thirty-one units, noting that no individual  
3 apartment number was provided. (Docket No. 35 at 7). Defendants argue that their zealous  
4 investigation yielded no information to corroborate Plaintiff's contention that its principal place  
5 of business was truly in Minnesota; rather, the only business interactions Defendants found took  
6 place in Puerto Rico. Id. at 6-7. In addition, Defendants note that Plaintiff is involved in multiple  
7 cases in this Court. Id. at 7. Defendants also posit that Plaintiff's primary business is to buy  
8 assets and foreclosures in Puerto Rico. Id. at 18.

9 Wherever Plaintiff's principal place of business exists, Plaintiff should be able to present  
10 evidence showing details about the location of managers and corporate personnel in charge of  
11 daily operations, directors' meetings, bank accounts, where major policy decisions are made,  
12 as well as the operations themselves. See Media Duplication, 928 F.2d at 1237 ("[W]hen a  
13 corporation is called upon to establish its own citizenship—particularly, as in this case, a  
14 corporate plaintiff which has chosen to initiate the litigation under the federal courts' diversity  
15 jurisdiction—the imposition is hardly overwhelming.").

16 In support of Plaintiff's contention that its principal place of business is in Minnesota,  
17 Plaintiff provides an unsworn affidavit from Adam Bernier, an authorized representative of  
18 Plaintiff and Condado 2 CLF, Inc. (Docket No. 52-1), the limited liability company agreement  
19 for Condado 2 CLF, LLC, and Condado 2 CLF, Inc.'s bylaws. (Docket Nos. 53-1-53-4). The  
20 latter two documents are simply standard corporate filings and are thus insufficient, on their  
21 own, to be considered "competent proof" of Plaintiff's principal place of business. Hertz Corp.,  
22 559 U.S. at 96–97.

Mr. Bernier's blanket statement that Condado 2 CLF, Inc.'s corporate officers are located in Minnesota and that the decision-making and directional activity for the corporation occurs there is similarly insufficient. (Docket No. 52-1 at 4). Plaintiff offers no details—despite ample opportunity do so, given the content of Defendants' motion to dismiss—as to Condado 2 CLF, Inc.'s business activities. “Notably absent from the evidence here are factual allegations bearing on the array of factors typically considered in determining a corporation's principal place of business, e.g.: location of directors' meetings and where major policy decisions are made; location of managers and other corporate personnel who direct daily operations; location of the operations themselves; location from which corporate income tax is filed; location of bank accounts.” Media Duplication, 928 F.2d at 1237.

Plaintiff's submissions do not provide enough information for the Court to make a determination with respect to the location of Plaintiff's principal place of business. As such, the Court **GRANTS** Defendants' motion for jurisdictional discovery at Docket No. 57 and **DENIES without prejudice** Defendants' amended motion to dismiss at Docket No. 35. The parties shall conduct further jurisdictional discovery on the issue of Plaintiff's “nerve center.” Jurisdictional discovery shall close on June 4, 2018 and the final dispositive jurisdictional motions shall be filed on or before June 11, 2018.

**SO ORDERED.**

In San Juan, Puerto Rico this 4th day of May, 2018.

*s/ Gustavo A. Gelpí*  
GUSTAVO A. GELPI  
United States District Judge